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LEGISLATURE OF THE STATE OF IDAHO  
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1 AN ACT  
2 RELATING TO EMERGENCIES; AMENDING SECTION 46-601, IDAHO CODE, TO PROVIDE  
3 CERTAIN LIMITATIONS ON ACTIONS TAKEN BY THE GOVERNOR DURING A STATE OF  
4 EXTREME EMERGENCY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION  
5 46-1008, IDAHO CODE, TO PROVIDE CERTAIN LIMITATIONS ON ACTIONS TAKEN BY  
6 THE GOVERNOR DURING A STATE OF DISASTER EMERGENCY AND TO MAKE TECHNICAL  
7 CORRECTIONS; AND DECLARING AN EMERGENCY.

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 46-601, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 46-601. AUTHORITY OF GOVERNOR. (1) The governor shall have the power  
12 in the event of a state of extreme emergency to order into the active ser-  
13 vice of the state, the national guard, or any part thereof, and the organized  
14 militia, or any part thereof, or both as he may deem proper.

15 "State of extreme emergency" means: (a) the duly proclaimed existence  
16 of conditions of extreme peril to the safety of persons and property within  
17 the state, or any part thereof, caused by an enemy attack or threatened at-  
18 tack; or (b) the duly proclaimed existence of conditions of extreme peril  
19 to the safety of persons and property within the state, or any part thereof,  
20 caused by such conditions as air pollution, fire, flood, storm, epidemic,  
21 riot or earthquake, insurrection, breach of the peace, which conditions by  
22 reason of their magnitude are or are likely to be beyond the control of the  
23 services, personnel, equipment and facilities of any county, any city, or  
24 any city and county.

25 (2) During a period of a state of extreme emergency, the governor shall  
26 have complete authority over all agencies of the state government, including  
27 all separate boards and commissions, and the right to exercise within the  
28 area or regions wherein the state of extreme emergency exists all police  
29 power vested in the state by the constitution and the laws of the state of  
30 Idaho. In the exercise thereof he is authorized to promulgate, issue and  
31 enforce rules, ~~regulations~~ and orders which he considers necessary for the  
32 protection of life and property. Such rules, ~~regulations~~ and orders shall,  
33 whenever practicable, be prepared in advance of extreme emergency and the  
34 governor shall cause widespread publicity and notice to be given of such  
35 rules, ~~regulations~~ and orders. Rules, ~~regulations~~ and orders issued under  
36 the authority of this section and prepared in advance of a state of extreme  
37 emergency shall not become operative until the governor proclaims a state  
38 of extreme emergency. ~~Such~~ The governor's rules, ~~regulations~~ and orders  
39 shall be in writing and shall take effect upon their issuance. They shall be  
40 filed in the office of the secretary of state as soon as possible after their  
41 issuance. A copy of such rules, ~~regulations~~ and orders shall likewise be  
42 filed in the office of the county clerk of each county, any portion of which

1 is included within the area wherein a state of extreme emergency has been  
2 proclaimed. Whenever the state of extreme emergency has been ended by either  
3 the expiration of the period for which it was proclaimed or the need for said  
4 state of extreme emergency has ceased, the governor shall declare the period  
5 of the state of extreme emergency to be at an end.

6 (3) During the continuance of any proclaimed state of extreme emer-  
7 gency, insurrection or martial law, neither the governor nor any agency of  
8 any governmental entity or political subdivision of the state shall impose  
9 additional restrictions on the lawful possession, transfer, sale, trans-  
10 port, storage, display or use of firearms or ammunition.

11 (4) During any state of extreme emergency, the governor may not alter,  
12 adjust, or suspend any provision of any statute.

13 SECTION 2. That Section 46-1008, Idaho Code, be, and the same is hereby  
14 amended to read as follows:

15 46-1008. THE GOVERNOR AND DISASTER EMERGENCIES. (1) Under this act,  
16 the governor may issue executive orders, and proclamations and amend or re-  
17 scind them. Executive orders and proclamations have the force and effect of  
18 law.

19 (2) A disaster emergency shall be declared by executive order or  
20 proclamation of the governor if he finds a disaster has occurred or that the  
21 occurrence or the threat thereof is imminent. The state of disaster emer-  
22 gency shall continue until the governor finds that the threat or danger has  
23 passed, or the disaster has been dealt with to the extent that emergency con-  
24 ditions no longer exist, and when either or both of these events occur, the  
25 governor shall terminate the state of disaster emergency by executive order  
26 or proclamation; provided, however, that no state of disaster emergency may  
27 continue for longer than thirty (30) days unless the governor finds that it  
28 should be continued for another thirty (30) days or any part thereof. The  
29 legislature by concurrent resolution may terminate a state of disaster emer-  
30 gency at any time. Thereupon, the governor shall issue an executive order or  
31 proclamation ending the state of disaster emergency. All executive orders  
32 or proclamations issued under this subsection shall indicate the nature of  
33 the disaster, the area or areas threatened, the area subject to the proclama-  
34 tion, and the conditions which are causing the disaster. An executive order  
35 or proclamation shall be disseminated promptly by means calculated to bring  
36 its contents to the attention of the general public and unless the circum-  
37 stances attendant upon the disaster prevent or impede, be promptly filed  
38 with the Idaho office of emergency management, the office of the secretary  
39 of state and the office of the recorder of each county where the state of  
40 disaster emergency applies.

41 (3) An executive order or proclamation of a state of disaster emergency  
42 shall activate the disaster response and recovery aspects of the state, lo-  
43 cal, and intergovernmental disaster emergency plans applicable to the po-  
44 litical subdivision or area in question and be authority for the deployment  
45 and use of any forces to which the plan or plans apply and for use or dis-  
46 tribution of any supplies, equipment, and materials and facilities assem-  
47 bled, stockpiled, or arranged to be made available pursuant to this act or  
48 any other provision of law relating to disaster emergencies.

1 (4) During the continuance of any state of disaster emergency, the  
2 governor is commander-in-chief of the militia and may assume command of all  
3 other forces available for emergency duty. To the greatest extent prac-  
4 ticable, the governor shall delegate or assign command authority by prior  
5 arrangement embodied in appropriate executive orders or ~~regulations~~ rules,  
6 but nothing herein restricts his authority to do so by orders issued at the  
7 time of the disaster emergency.

8 (5) In addition to any other powers conferred upon the governor by law,  
9 he may:

10 (a) Suspend the provisions of any ~~regulations~~ rules prescribing the  
11 procedures for conduct of public business that would in any way prevent,  
12 hinder, or delay necessary action in coping with the emergency;

13 (b) Utilize all resources of the state, including, but not limited to,  
14 those sums in the disaster emergency account as he shall deem necessary  
15 to pay obligations and expenses incurred during a declared state of dis-  
16 aster emergency;

17 (c) Transfer the direction, personnel, or functions of state depart-  
18 ments and agencies or units thereof for the purpose of performing or fa-  
19 cilitating emergency services;

20 (d) Subject to any applicable requirements for compensation under sec-  
21 tion 46-1012, Idaho Code, commandeer or utilize any private property,  
22 real or personal, if he finds this necessary to cope with the disaster  
23 emergency;

24 (e) Direct and compel the evacuation of all or part of the population  
25 from any stricken or threatened area within the state if he deems this  
26 action necessary for the preservation of life or other disaster mitiga-  
27 tion, response, or recovery;

28 (f) Prescribe routes, modes of transportation, and destinations in  
29 connection with evacuation;

30 (g) Control ingress and egress to and from a disaster area, the movement  
31 of persons within the area, and the occupancy of premises therein;

32 (h) Suspend or limit the sale, dispensing or transportation of alco-  
33 holic beverages, explosives, and combustibles;

34 (i) Make provision for the availability and use of temporary emergency  
35 housing.

36 (6) Whenever an emergency or a disaster has been declared to exist in  
37 Idaho by the president under the provisions of the disaster relief act of  
38 1974 (public law 93-288, 42 U.S.C. 5121), as amended, the governor may:

39 (a) Enter into agreements with the federal government for the sharing  
40 of disaster recovery expenses involving public facilities;

41 (b) Require as a condition of state assistance that a local taxing dis-  
42 trict be responsible for paying forty percent (40%) of the nonfederal  
43 share of costs incurred by the local taxing district that have been de-  
44 termined to be eligible for reimbursement by the federal government,  
45 provided that the total local share of eligible costs for a taxing dis-  
46 trict shall not exceed ten percent (10%) of the taxing district's tax  
47 charges authorized by section 63-802, Idaho Code;

48 (c) Obligate the state to pay the balance of the nonfederal share of el-  
49 igible costs within local taxing entities qualifying for federal assis-  
50 tance; and

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1 (d) Enter into agreements with the federal government for the sharing  
2 of disaster assistance expenses to include individual and family grant  
3 programs.

4 (7) During the continuance of any state of disaster emergency, neither  
5 the governor nor any agency of any governmental entity or political subdivi-  
6 sion of the state shall impose restrictions on the lawful possession, trans-  
7 fer, sale, transport, storage, display or use of firearms or ammunition.

8 (8) During any state of disaster emergency, the governor may not alter,  
9 adjust, or suspend any provision of any statute.

10 SECTION 3. An emergency existing therefor, which emergency is hereby  
11 declared to exist, this act shall be in full force and effect on and after its  
12 passage and approval.